

In re ) Fair Hearing No. 15,281  
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Appeal of )

The petitioner appeals a decision of the Department of Social Welfare decreasing her ANFC benefits based upon her receipt of a housing utility allowance through the public housing authority.

1. The petitioner is an ANFC recipient who recently moved from an apartment in which she paid a flat fee of \$192 per month for rent, electric, heat, laundry and trash removal to an apartment in which she pays \$70 per month for rent but is responsible for paying for her utilities separately.

2. Both of the housing units in which the petitioner lived are publicly subsidized through a program of the Housing and Urban Development program administered by the Vermont State Housing Authority. The amount she pays for her shelter and utilities is a percentage of her income. When she moved to her current apartment, in which she is required to pay her own fuel and utilities, the housing authority established a \$120 allowance for her fuel and utilities which resulted in a drop in the amount she had to pay for rent by a like amount.

3. Upon learning of the utility allowance, the Department recalculated the petitioner's eligibility for ANFC by including \$70 of the utility allowance as unearned income to her. That action caused the petitioner to lose \$70 per month from her ANFC grant. She was notified by a decision dated November 13, 1997, that her ANFC would be reduced from \$508 to \$438 beginning December 1. That same notice informed the petitioner that because she had incurred greater fuel and utility expenses, her Food Stamps would increase from \$151 to \$210 (the maximum for her household size). She has also been found eligible for fuel assistance in the amount of \$183 beginning in January of 1998, based upon her vulnerability to paying her own heat and utility charges, a program for which she was not eligible in her former apartment.

4. The petitioner appealed her reduction because she says her expenses are actually greater than they were in her last housing unit because her rent, fuel and utilities, including laundry, now total about \$350 during the winter months, whereas she received all these services for \$192 per month previously. She also has to keep a car running so she can go back and forth to school (where she is a semester away from getting her bachelor's degree) and has day care payments of about \$80 per month for her five-year-old son.

ORDER

The decision of the Department should be affirmed.

REASONS

Under regulations adopted by the Department of Social Welfare, certain portions of subsidized housing allowances must be counted as unearned income:

Unearned income includes the following:

. . . .

- F. \$70.00 of a Housing and Urban Development (HUD) fuel or fuel and utility subsidy or \$30.00 of a utility-only subsidy which has been included in HUD's calculation of the rent of an ANFC family living in subsidized housing, thereby reducing its rental obligation by an equivalent amount. This amount is not limited to a subsidy actually paid to the ANFC family. An applicant or recipient who documents an actual subsidy amount less than the standard may have the actual amount counted as unearned income in benefit and eligibility calculations.

W.A.M. 3 2252

The petitioner has a fuel and utility allowance of over \$70 per month which under the above regulation requires the Department to include the full \$70 as unearned income to her. The Department's action is in accord with its validly adopted regulation and thus must be upheld. 3 V.S.A. 3 3091(d).

The various regulations adopted by the Department in an attempt to equalize amounts paid to families in similar circumstances are often difficult for the recipient to fathom, especially when the scheme of all the programs

administered by the DSW cannot be seen in overview.

It is easy to see why the petitioner should have been confused that her subsidy, which is not an amount paid to her but rather an amount retained by her on rent day, would be partially counted as unearned income to her now but not when she paid the same amount to her former landlord directly for heat and utilities. However, her assumption of the responsibility of payment for her heat and utilities has made her eligible for the fuel assistance program and a larger shelter deduction for Food Stamps which leaves her with a net monthly income roughly equivalent to what she had before. She would not have been eligible for either of these benefits if she were still living in subsidized housing where she had no separate vulnerability for fuel and utility expenses. See Food Stamp Manual § 273.9(d)(6)(ii) and the fuel regulations at W.A.M. § 2901.2.

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